

DEPARTMENT OF STATE

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American Embassy,
Tokyo, Japan,
July 19, 1954

Dear Thayer:

This refers to your letter of June 24, 1954, giving Gene Braderman's comments on instruction No. A-933 of June 21 on the subject of American investment in Japan.

It is our belief here that Gene is essentially correct in his interpretation of Okazaki's letter. It would be unrealistic to conclude that an early improvement can be expected in the Japanese Government's attitude toward private equity investment. Okazaki's letter is really not encouraging and, consequently, I do not believe it desirable to publish the letter and send it to Commerce field offices. In this connection I am convinced that the Japanese Government will continue to place various administrative obstacles in the path of those desiring to make investments in Japan whether or not majority ownership and control are involved. Furthermore, as the letter clearly implies, the Japanese Government will continue its policy of evaluating foreign investment applications in terms of the degree of competition against domestic industries.

The Embassy intends to reply to Okazaki's letter in the terms set forth in instruction A-933. It is good to learn that Gene has expressed Commerce support for the position taken in the instruction regarding the interpretation of the FCN Treaty. As you know from our previous despatches and comments on the subject of foreign investment, this has also been our view for a long time. Undoubtedly you and Gene are aware of the continuing efforts of Embassy officers to impress the Japanese with the benefits to Japan of foreign investment. I am not at all sure that it has had as much effect as the effort expended, but I agree that it is worth continuing, both in general terms and more specifically in giving strong support to investment programs which we are convinced merit such support. It will certainly be useful, in fact essential, to indicate to the Japanese at every appropriate opportunity (as A-933 instructs us to do) any action which contravenes the FCN Treaty. The Japanese need to be made fully aware that the United States believes the FCN Treaty was negotiated in good faith and will be executed without exception.

You may wish to point out to Gene that in the Embassy's opinion it may not be profitable to raise the question of modification of the foreign investment law at this time, although I have recently sent Asakai a letter referring to previous correspondence on the subject with Oda. As you know, I have discussed this matter with the Japanese on several occasions during the past year and they have always taken a passive attitude towards broadening the law's applicability to branch firms and prewar firms. I believe it might be more productive to wait

C. Thayer White, Esquire,
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until representations could be tied with a specific project in which the Japanese have a special interest. Under such conditions we would have a better chance of achieving the objective of bringing the law into line with the provisions of the FCN Treaty.

Sincerely,

(Signed) Frank

Frank A. Waring
Counselor of Embassy,
Economic Affairs

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American Embassy, Tokyo
July 20, 1954

My dear Mr. Minister:

May I take this opportunity of expressing appreciation for your letter of May 31, 1954, on the subject of American investment in Japan, and the offer of your Government to discuss with the Embassy specific proposals for investment.

Your letter reiterates your Government's long-standing position that it generally welcomes foreign investments. This statement is appreciated for, as you know, it is the belief of the United States Government that foreign investment can make a significant contribution in strengthening Japan's economy. The Government of the United States believes strongly that Japan should encourage those American investments which will assist Japan in augmenting its foreign exchange reserves. The application of any other policy would not only deprive Japan of assistance it might otherwise obtain, but would also be in contravention of the provisions of the Treaty of Friendship, Commerce and Navigation between our two countries.

It is with this in mind that I take the liberty of commenting on the criteria which you state in your letter will be used by the Japanese Government in evaluating applications for American investment. In the opinion of my Government, the FCN Treaty recognizes only one qualification as modifying Japan's obligation to grant national treatment to American businessmen seeking to make investments in Japan, with the exception of public utilities and other enterprises specified in paragraph 2 of Article 7. The sole qualification to which I refer is contained in paragraph 6 of the Protocol to the Treaty which recognizes that either party may impose such restrictions on the introduction of foreign capital as may be necessary to protect its monetary reserves. In view of this provision, I regret to note that the Japanese Government intends to apply additional restrictions in screening investments. You indicate that "it is the policy of the Japanese Government to welcome foreign investments which contribute to the development of our essential industries and public enterprises," and that the Japanese Government will "consider favorably any application for such investments even if they compete to a certain extent with the domestic industries." As an overall consideration you point out that careful study must be given to any investment "which would result in an increase of luxury items or purely nonessential commodities in the domestic market."

My Government believes that the FCN Treaty contains no provision which would permit the exclusion of an American investment on the basis of either the competition it affords to domestic industries, or the degree of essentiality of the investment. The sole criterion recognized by the Treaty is the effect

His Excellency
Katsuo Okazaki
Minister of Foreign Affairs,
Tokyo

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of the investment on Japan's balance of payments. In view of the recent deterioration in this aspect of Japan's economy, it would appear that any foreign investment which does not violate Japanese law should be welcome, provided such investment serves to strengthen Japan's foreign exchange reserves by either expanding exports or reducing dependence upon imports.

In addition to contributing to the strength of Japan's foreign exchange position, private American capital can provide increased employment, new markets for Japanese products, modern equipment and technology, and new sources of tax revenue. Thus, through increased efficiency and reduction in cost, not only will the competitive position of Japanese products be improved abroad, but also the domestic economy will be strengthened.

The United States has been assisting Japan in a number of ways to cope with its foreign exchange problem. It has been making a substantial portion of its offshore procurement in Japan and promoting arrangements for expanding Japan's export markets. It has undertaken to provide military assistance to Japan and to pay all dollar costs and part of the yen costs of maintaining United States forces in Japan. To reduce the burden which the United States has assumed principally because of Japan's foreign exchange difficulties, the United States has a strong interest in assuring that the Japanese Government does not reject such American investments as can be expected to improve Japan's foreign exchange position. This interest adds to the concern which the United States Government always feels to assure that the treaty rights of individual American investors are respected.

It is my hope that Japan will not deny itself the simple and profitable avenue of self-help which the encouragement of the investment of private foreign capital can afford. I trust further that your Government will re-examine its policies and practices regarding foreign investment with the objective of modifying them in accordance with the provisions of the FCN Treaty between our two countries. May I request that the subject raised in this letter receive the thoughtful consideration of your Government. I shall hold myself in readiness further to discuss this problem at your early convenience.

Sincerely yours,

John M. Allison